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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,342	10/24/2003	Henning Brandt	36144	2700
116	7590	12/01/2004	EXAMINER	
PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			GRAVINI, STEPHEN MICHAEL	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT PAPER

20041115

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Office Action Summary	Application No.	Applicant(s)
	10/693,342	BRANDT, HENNING
	Examiner	Art Unit
	Stephen Gravini	3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 January 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>20040129</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Denmark on December 22, 2002. It is noted, however, that applicant has not filed a certified copy of the Danish application as required by 35 U.S.C. 119(b).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Pouvreau (US 6,205,405). As a preliminary matter, the Office is construing the first independently claimed invention under 35 USC 112, sixth paragraph since it is considered that all three elements set forth in MPEP 2181 for invoking the means plus function interpretation have been established. Pouvreau is considered to disclose the claimed invention comprising:

means 12 for briefly increasing a supply of voltage to the motor immediately before a brief interruption of the connection between the household current and the capacitor;

means 18 for measuring a signal across the auxiliary winding and means for causing an alarm indication when the signal is below a preset value (please see column 5 line 16). Pouvreau is also considered to disclose means for

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briefly increasing is performed in conjunction with an electronic speed control for the motor by briefly setting the speed control to maximum (column 5 lines 54-56), and means for combining information about the presence of household voltage with information about a current in the motor circuit in order to ascertain if a blocked motor shaft has occurred when the alarm is indicated (column 5 lines 10-17).

Claims 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Binstock (US 4,181,099). Binstock is considered to disclose the claimed invention comprising:

a safety circuit, wherein a voltage supplied to the motor is briefly increased immediately before a brief interruption of the connection between the household current and the capacitor, whereupon a measuring signal is taken across the auxiliary winding, said measuring signal causing an alarm when it is below a preset value (please see column 4 lines 10-30 and figure 2A showing an 80% low speed alarm). Binstock is also considered to disclose an electronic speed control for the motor, wherein the speed control is briefly set to maximum immediately before the brief disconnection in order to obtain the measuring signal (column 5 lines 34-56), and in case of alarm, information about the presence of household voltage is combined with information about a current in the motor circuit in order to ascertain if a blocked motor shaft has occurred (column 1 line 48 through column 2 line 4).

Claims 7-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Rubin (US 5,568,691). Rubin is considered to disclose the claimed invention comprising: briefly increasing a voltage supplied to the motor (column 12 lines 31-50);

immediately after the step of increasing, briefly interrupting a connection between the household current and the capacitor (column 12 lines 50-54);

measuring a signal across the auxiliary winding during the brief interruption (column 12 lines 55-67); and

causing an alarm indication when the signal is below a preset value (column 13 lines 37-45). Rubin is also considered to disclose the claimed step of briefly increasing the voltage is performed in conjunction with an electronic speed control for the motor by briefly setting the speed control to a maximum level (column 13 lines 5-24).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rubin in view of Schmider et al. (US 6,456,024). Rubin is considered to disclose the claimed invention, as discussed under the anticipatory rejection above, except for the claimed

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blocked motor shaft ascertained occurrence. Schmider, another asynchronous motor, is considered to disclose a blocked motor shaft ascertained occurrence at column 6 lines 1-5. It would have been obvious to one skilled in the art to combine the teachings of Rubin with the blocked motor shaft ascertained occurrence teaching considered to be disclosed in Schmider for the purpose of generating an alarm signal in the case of a jammed or blocked motor shaft.

Claim 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rubin in view of Schell et al. (US 6,250,133). Rubin is considered to disclose the claimed invention, as discussed under the anticipatory rejection above, except for the claimed chimney fan. Schell, another fan system, is considered to disclose a chimney fan at column 4 lines 23-28. It would have been obvious to one skilled in the art to combine the teachings of Rubin with the chimney fan teaching considered to be disclosed in Schell for the purpose of discharging furnace combustion products through a flue.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rubin in view of in view of Schell in further view of Schmider. Rubin in view of Schell is considered to disclose the claimed invention, as discussed under the obviousness rejection above, except for the claimed blocked motor shaft ascertained occurrence. Schmider, another asynchronous motor, is considered to disclose a blocked motor shaft ascertained occurrence at column 6 lines 1-5. It would have been obvious to one skilled in the art to combine the teachings of Rubin in view of Schell with the blocked motor

shaft ascertained occurrence teaching considered to be disclosed in Schmider for the purpose of generating an alarm signal in the case of a jammed or blocked motor shaft.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References F-I, cited in this action, are considered to disclose one or more of the claimed elements of a chimney fan safety circuit.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 703 308 7570. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira S. Lazarus can be reached on 703 308 1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Smg

November 15, 2004

